

(2) If the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for more than one control period, in accordance with paragraphs (b)(1) and (2) of this section, and the unit does not have add-on NO<sub>x</sub> emission controls during any such control periods, the average of the amounts of the unit's NO<sub>x</sub> emissions rate (in lb/mmBtu) for the control periods under paragraphs (b)(1)(ii) and (2) of this section; or

(3) If the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for more than one control period, in accordance with paragraphs (b)(1) and (2) of this section, and the unit has add-on NO<sub>x</sub> emission controls during any such control periods, the average of the amounts of the unit's NO<sub>x</sub> emissions rate (in lb/mmBtu) for such control periods during which the unit has add-on NO<sub>x</sub> emission controls.

(e) *Issuance of CAIR opt-in permit.* After calculating the baseline heat input and the baseline NO<sub>x</sub> emissions rate for the unit under paragraphs (c) and (d) of this section and if the permitting authority determines that the CAIR designated representative shows that the unit meets the requirements for a CAIR NO<sub>x</sub> Ozone Season opt-in unit in § 97.380 and meets the elements certified in § 97.383(a)(2), the permitting authority will issue a CAIR opt-in permit. The permitting authority will provide a copy of the CAIR opt-in permit to the Administrator, who will then establish a compliance account for the source that includes the CAIR NO<sub>x</sub> Ozone Season opt-in unit unless the source already has a compliance account.

(f) *Issuance of denial of CAIR opt-in permit.* Notwithstanding paragraphs (a) through (e) of this section, if at any time before issuance of a CAIR opt-in permit for the unit, the permitting authority determines that the CAIR designated representative fails to show that the unit meets the requirements for a CAIR NO<sub>x</sub> Ozone Season opt-in unit in § 97.380 or meets the elements certified in § 97.383(a)(2), the permitting authority will issue a denial of a CAIR opt-in permit for the unit.

(g) *Date of entry into CAIR NO<sub>x</sub> Ozone Season Trading Program.* A unit for which an initial CAIR opt-in permit is

issued by the permitting authority shall become a CAIR NO<sub>x</sub> Ozone Season opt-in unit, and a CAIR NO<sub>x</sub> Ozone Season unit, as of the later of May 1, 2009 or May 1 of the first control period during which such CAIR opt-in permit is issued.

(h) *Repowered CAIR NO<sub>x</sub> Ozone Season opt-in unit.* (1) If CAIR designated representative requests, and the permitting authority issues a CAIR opt-in permit providing for, allocation to a CAIR NO<sub>x</sub> Ozone Season opt-in unit of CAIR NO<sub>x</sub> Ozone Season allowances under § 97.388(c) and such unit is repowered after its date of entry into the CAIR NO<sub>x</sub> Ozone Season Trading Program under paragraph (g) of this section, the repowered unit shall be treated as a CAIR NO<sub>x</sub> Ozone Season opt-in unit replacing the original CAIR NO<sub>x</sub> Ozone Season opt-in unit, as of the date of start-up of the repowered unit's combustion chamber.

(2) Notwithstanding paragraphs (c) and (d) of this section, as of the date of start-up under paragraph (h)(1) of this section, the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement of commercial operation, baseline heat input, and baseline NO<sub>x</sub> emission rate as the original CAIR NO<sub>x</sub> Ozone Season opt-in unit, and the original CAIR NO<sub>x</sub> Ozone Season opt-in unit shall no longer be treated as a CAIR NO<sub>x</sub> Ozone Season opt-in unit or a CAIR NO<sub>x</sub> Ozone Season unit.

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#### § 97.385 CAIR opt-in permit contents.

(a) Each CAIR opt-in permit will contain:

(1) All elements required for a complete CAIR permit application under § 97.322;

(2) The certification in § 97.383(a)(2);

(3) The unit's baseline heat input under § 97.384(c);

(4) The unit's baseline NO<sub>x</sub> emission rate under § 97.384(d);

(5) A statement whether the unit is to be allocated CAIR NO<sub>x</sub> Ozone Season allowances under § 97.388(b) or § 97.388(c) (subject to the conditions in §§ 97.384(h) and 97.386(g));

(6) A statement that the unit may withdraw from the CAIR NO<sub>x</sub> Ozone

Season Trading Program only in accordance with § 97.386; and

(7) A statement that the unit is subject to, and the owners and operators of the unit must comply with, the requirements of § 97.387.

(b) Each CAIR opt-in permit is deemed to incorporate automatically the definitions of terms under § 97.302 and, upon recordation by the Administrator under subpart FFFF or GGGG of this part or this subpart, every allocation, transfer, or deduction of CAIR NO<sub>x</sub> Ozone Season allowances to or from the compliance account of the source that includes a CAIR NO<sub>x</sub> Ozone Season opt-in unit covered by the CAIR opt-in permit.

(c) The CAIR opt-in permit shall be included, in a format specified by the permitting authority, in the CAIR permit for the source where the CAIR NO<sub>x</sub> Ozone Season opt-in unit is located and in a title V operating permit or other federally enforceable permit for the source.

**§ 97.386 Withdrawal from CAIR NO<sub>x</sub> Ozone Season Trading Program.**

Except as provided under paragraph (g) of this section, a CAIR NO<sub>x</sub> Ozone Season opt-in unit may withdraw from the CAIR NO<sub>x</sub> Ozone Season Trading Program, but only if the permitting authority issues a notification to the CAIR designated representative of the CAIR NO<sub>x</sub> Ozone Season opt-in unit of the acceptance of the withdrawal of the CAIR NO<sub>x</sub> Ozone Season opt-in unit in accordance with paragraph (d) of this section.

(a) *Requesting withdrawal.* In order to withdraw a CAIR NO<sub>x</sub> Ozone Season opt-in unit from the CAIR NO<sub>x</sub> Ozone Season Trading Program, the CAIR designated representative of the CAIR NO<sub>x</sub> Ozone Season opt-in unit shall submit to the permitting authority a request to withdraw effective as of midnight of September 30 of a specified calendar year, which date must be at least 4 years after September 30 of the year of entry into the CAIR NO<sub>x</sub> Ozone Season Trading Program under § 97.384(g). The request must be submitted no later than 90 days before the requested effective date of withdrawal.

(b) *Conditions for withdrawal.* Before a CAIR NO<sub>x</sub> Ozone Season opt-in unit

covered by a request under paragraph (a) of this section may withdraw from the CAIR NO<sub>x</sub> Ozone Season Trading Program and the CAIR opt-in permit may be terminated under paragraph (e) of this section, the following conditions must be met:

(1) For the control period ending on the date on which the withdrawal is to be effective, the source that includes the CAIR NO<sub>x</sub> Ozone Season opt-in unit must meet the requirement to hold CAIR NO<sub>x</sub> Ozone Season allowances under § 97.306(c) and cannot have any excess emissions.

(2) After the requirement for withdrawal under paragraph (b)(1) of this section is met, the Administrator will deduct from the compliance account of the source that includes the CAIR NO<sub>x</sub> Ozone Season opt-in unit CAIR NO<sub>x</sub> Ozone Season allowances equal in amount to and allocated for the same or a prior control period as any CAIR NO<sub>x</sub> Ozone Season allowances allocated to the CAIR NO<sub>x</sub> Ozone Season opt-in unit under § 97.388 for any control period for which the withdrawal is to be effective. If there are no remaining CAIR NO<sub>x</sub> Ozone Season units at the source, the Administrator will close the compliance account, and the owners and operators of the CAIR NO<sub>x</sub> Ozone Season opt-in unit may submit a CAIR NO<sub>x</sub> Ozone Season allowance transfer for any remaining CAIR NO<sub>x</sub> Ozone Season allowances to another CAIR NO<sub>x</sub> Ozone Season Allowance Tracking System in accordance with subpart GGGG of this part.

(c) *Notification.* (1) After the requirements for withdrawal under paragraphs (a) and (b) of this section are met (including deduction of the full amount of CAIR NO<sub>x</sub> Ozone Season allowances required), the permitting authority will issue a notification to the CAIR designated representative of the CAIR NO<sub>x</sub> Ozone Season opt-in unit of the acceptance of the withdrawal of the CAIR NO<sub>x</sub> Ozone Season opt-in unit as of midnight on September 30 of the calendar year for which the withdrawal was requested.

(2) If the requirements for withdrawal under paragraphs (a) and (b) of this section are not met, the permitting authority will issue a notification to the CAIR designated representative